

REMARKS

Claims 1-5, 7 and 9-13 are pending. Claims 1, 7, 9 and 13 have been amended. Claims 1 and 9 are the only independent claims. Claim 6 has been cancelled without prejudice.

With regard to the amendment to the specification in the previous response, this amendment is believed to have obviated the objections to the drawings. For this reason, the statement at item 2 of the Office Action that “the corrections to the drawings and specification will not be held in abeyance” will be treated as a mistake. No further amendments need to be made to either the drawings or the specification. It is requested that this be clarified in the next Office Action.

Claims 1, 3, 6 and 7 were rejected under 35 U.S.C. § 103 over U.S. Patent 6,571,279 (Herz et al.) in view of U.S. Patent 6,269,394 (Kenner et al.). Claims 2, 4, 5 and 10-13 were rejected under 35 U.S.C. § 103 over Herz et al. and Kenner et al. and further in view of U.S. Patent 5,627,549 (Park).

Amended claim 1 is directed to a regional information distribution system for use in distributing regional information to consumers through a communication network. The system includes: an information input terminal for making advertising data designating regions where the advertising data are distributed; a concentrated management server which is connected with the information input terminal through the communication network and which manages the advertising data; a regional distribution server which is connected with the concentrated management server through the communication network and which is integrated with a radio base station located per each region where the advertising data are distributed and which distributes the advertising data to a handy terminal existing within the area of the radio base station, the handy terminal having an information filter function for determining favorable conditions of said advertising data for an owner of the handy terminal;

and a support server for distributing the advertising data in place of the regional distribution server, when load is concentrated on the regional distribution server.

Among the features of claim 1 neither taught nor suggested in the art of record are the handy terminal having an information filter function for determining favorable conditions of the advertising data for an owner of handy terminal, and provision of a support server that distributing the advertising data in place of the regional distribution server, when load is concentrated on the regional distribution server.

In the rejection of now-cancelled claim 6, the position was taken that Herz teaches that the handy terminal has an information filter function for determining favorable conditions of the advertising data for an owner of handy terminal. This not correct. Column 14, lines 58-62 of Herz, alleged to teach this feature, actually refers to filtering portions of information in the virtual tags, not for determining favorable conditions of the advertising data for an owner of a handy terminal.

The other portion of Herz alleged to meet this feature is at column 21, lines 23-55. This portion of Herz includes a discussion of *collaborative filtering*, a technique used to decide, using statistical data based on a user's, or a similar user's, previous choices, what the user would be more likely to choose now or in the future. For example, collaborative filtering is used by online booksellers to determine which books to recommend to a user when he/she logs in. In the referenced portion of Herz, collaborative filtering is used by the system to automatically generate profile information. It is *not* a filtering used at the handy terminal itself by the user.

For at least the foregoing reasons, amended claim 1 is believed clearly patentable over Herz. Park relates to dual channel advertising referencing a vehicle's location, but does not remedy the above-identified deficiency of Herz as a reference against amended claim 1.

Amended independent claim 9 is a method claim substantially corresponding to amended claim 1 and is believed patentable for substantially similar reasons.

For at least the reasons discussed above, the independent claims are believed to clearly distinguish over the cited references.

As to the position taken in the Office Action that it would have been obvious to modify Herz with the dynamic load balancing techniques of Kenner et al., Applicant respectfully disagrees. It is not enough that it would have been possible to make the modification proposed in the Office Action. The Office Action must identify some motivation in the prior art that would actually have caused one of skill in the art to make the modification to the primary reference.

In this case, the Examiner stated that it would have been obvious to add the load balancing of Kenner et al. to Herz because “it would prevent the servers from being overloaded and provide additional servers for backup and/or balancing.” Office Action at page 4. This statement provides no legally significant reason whatsoever *why* one would add this load balancing scheme to Herz. It is not enough to state simply that it would have been obvious to add structure for performing “function A” because you would then have “function A.” To rely on the mere fact that you would now have the claimed feature amounts to an improper hindsight reconstruction of the claims.

The Office Action must identify *why* one of ordinary skill in the art would add load balancing, and not simply say, in effect: “well, then you would have load balancing.” No proper rationale has been provided for making the combination. For at least this reason, no *prima facie* case of obviousness was set forth in the Office Action.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the

invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

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Respectfully submitted,

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